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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/005,723	11/02/2001	Alex V. Evonitz III	Evon-HelmetUSFull	9127
7590	03/17/2004		EXAMINER	
Santangelo Law Offices, P.C. Third Floor 125 South Howes Fort Collins, CO 80521			DAHBOUR, FADI H	
			ART UNIT	PAPER NUMBER
				3743

DATE MAILED: 03/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/005,723	EVONITZ, ALEX V.
	Examiner Fadi H. Dahbour	Art Unit 3743

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-32 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) 18-32 is/are allowed.  
 6) Claim(s) 1-4,6,7,9,13 and 16 is/are rejected.  
 7) Claim(s) 5,8,10-12,14,15 and 17 is/are objected to.  
 8) Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 18 January 2002 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

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#### Attachment(s)

- 1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date 11/2/01.
- 4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_.  
 5) Notice of Informal Patent Application (PTO-152)  
 6) Other: \_\_\_\_.

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-4, 6-7, 9, 13, 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Fitzpatrick.

Fitzpatrick discloses a helmet system for the protection of a wearer (Figs.1-8), comprising a protective head covering (Figs.1-6, 8), comprising an outer shell adapted to cover a substantial portion of the wearer's head (Figs.1-6, 8), a transparent face shield connected to the outer shell (Figs.4, 6, 8), a cushioning element inside of the outer shell (5' of Fig.6), at least one compressed breathable supply air canister (11 of Fig.4, also see "pressurized air from... supply 11" in lines 28-29 of col.4) fluidically coupled to the protective head covering (Figs.4-6, 8), at least one safety risk factor sensor (see "sensor" in line 7 of abstract), an air release element (36 of Fig.4, also see "36... admit pressurized air" in lines 27-28 of col.4) fluidically coupled to the at least one compressed breathable supply air canister (Figs.4-6, 8) and responsive to the safety risk factor sensor (see "sensor... information is passed...to the control system 12" in lines 62, 66, 67 of col.3; also see "electrical signals are supplied via cables 35 to... valves 36" in lines 25-27 of col.4), at least one pressurized air exfiltration element substantially fixed relative to the protective head covering (see "may similarly be signaled to vent... air" in

lines 32-33 of col.4, also see Figs.4-6, 8), wherein the at least one compressed breathable supply air canister comprises a cartridge (11 of Fig.4), wherein the at least one compressed breathable supply air canister comprises a tack located externally to the outer shell (11 of Fig.4), wherein the compressed breathable supply air canister is fluidically coupled to a location within the protective head covering by an air transport element (Figs.4-6, 8), wherein the air transport element comprises a detachment element (Figs.4-6, 8), wherein the air release element comprises at least one manually operable element (see "may have...manually operable" in line 56 of col.1), wherein the air release element comprises at least one electrically activatable element (see "electrical signals are supplied via cables 35 to electrically actuated...valves 36" in lines 25-27 of col.4), wherein the air release element comprises at least one mechanically activatable element (see "may have...manually operable" in line 56 of col.1), wherein the at least one pressurized air exfiltration element comprises at least one hole in the outer shell (Figs.4-6, 8).

***Allowable Subject Matter***

3. Claims 5, 8, 10-12, 14-15, 17 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
4. Claims 18-32 are allowed.

***Conclusion***

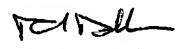
5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Mazzei, Sorrentino, Piszkin, Briggs, Yamamoto, Nava and Dawson et al are cited to show helmets.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fadi H. Dahbour whose telephone number is 703-306-5479. The examiner can normally be reached on M-F, 9am-5:30pm est.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Henry A. Bennett, can be reached on (703) 308-0101. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Fadi H. Dahbour  
Examiner  
Art Unit 3743